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FINAL REPORT

**OFFICE OF THE
STATE FIRE MARSHAL**

STUDY GROUP

MARCH 17, 1998

**Presented to the
118th Legislature
Joint Standing Committee
On Criminal Justice**

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INTRODUCTION

The Study Group to examine the Office of the State Fire Marshal was established by Resolve 1997, Chapter 10 (Attachment A.). The purpose of L.D. 359, "Resolve, to Establish a Study Group to Assess the Needs of the Office of the State Fire Marshal and Ensure Prompt, Effective Response to the Public's Fire Safety Needs", was to review the functions of, and services provided by, this State agency and to recommend improvements to its operations.

MEMBERSHIP

Consisting of thirteen members, the Study Group was representative of primary internal and external constituencies of the State Fire Marshal's Office: the insurance industry, Maine Fire Chiefs Association, Maine Chiefs of Police Association, firefighters, the Legislature, Maine Prosecutors Association, the Commissioner of Public Safety, the Department of Public Safety Licensing and Inspection unit, and the State Fire Marshal's Office (Attachment B.).

SCOPE

Specific areas of review included within the Resolve were:

- current resources of the office, including funding.
- the services provided by the office.
- issues of concern.
- law enforcement role of the State Fire Marshal within the Department of Public Safety.

SUMMARY

Several factors influenced the direction and efforts of the Study Group. One of the earliest discussions held among the members was how to reconcile the broad scope of the Resolve with the March 1, 1998 reporting deadline. Although the Resolve contained a provision to grant an extension, the Study Group was reluctant to request one. Extending the deadline would, in effect, bring any recommendations before the 119th Legislature. Whether those legislators with vested interest in this Resolve would be present then was impossible to determine. The Study Group concluded their recommendations would more likely have a greater impact if addressed to the 118th Legislature.

The reorganization achieved through the Productivity Realization Task Force initiative was an ongoing topic of discussion. The Department of Public Safety proposal consolidated all inspection and permitting functions, previously done by separate bureaus, into one unit under the Director of Administrative Services. Included were several functions that had been part of the Fire Marshal's Office. Study Group members were unsure if their assessment should include the new Department of Public Safety Licensing and Inspection unit. A principal author of the Public Safety proposal clarified the intended relationship between the State Fire Marshal's Office and the new unit. To date no information has been available to indicate any increase in efficiency or effectiveness as a result of the reorganization. No cross training of the field staff has been accomplished. Instead, the change has resulted in a great deal of confusion and frustration for

various constituents. From the perspective of administrative efficiency, the Study Group concluded the Office of the State Fire Marshal would be the most appropriate agency for fire related activities, including investigations, fire or life safety inspections, construction plan review, and public education.

Although not a part of the materials distributed for review, some members were familiar with two studies previously conducted within the State Fire Marshal's Office. Several of the findings contained there still have relevance. It is the intent of the recently appointed State Fire Marshal to take those findings into consideration with the outcome of this Resolve and develop short and long range plans for the office.

RESULTS

The Study Group submits its findings and recommendations requiring legislative action in order to strengthen and enhance the Office of the State Fire Marshal as follows:

- 1. Authorize the Commissioner of Public Safety to establish a reasonable schedule of fees through rulemaking in order to make the Department of Public Safety Licensing and Inspection unit self-funded:** This recommendation would ensure complete alignment with the Productivity Realization Task Force initiative. When the new unit was being planned in 1995, every effort was made to estimate its operational costs. Because of the difficulties inherent in using historical costs as a basis, especially for network automation systems, a shortfall occurred during the first year of operation. A portion of the fire premium tax was therefore transferred from the Fire Marshal's dedicated fund account into the Administrative Services fund account. Further study should be undertaken to determine the number of inspectors required to complete the functions specified in law. As it stands now, data submitted to the Study Group indicates the current number of field personnel is insufficient to complete the present volume of inspections.

Additionally, a number of high-risk occupancies can be found that are not currently being inspected. Examples of potentially dangerous buildings are flea markets held in defunct poultry barns and older multi-family apartments. The Study Group endorsed the concept of inspections within these and similar occupancies, and recommends staffing levels be increased to do so.

During its review of inspection and permitting functions and their enabling statutes, the Study Group was informed of negotiations taking place between Public Safety and the Department of Human Services. Since most of the inspections conducted were for facilities licensed by Human Services, the ability to establish sufficient costs for the services provided to the DHS is a critical first step toward self-funding. Although still in negotiation, the Study Group is confident the results will help strengthen the funding basis of the Licensing and Inspection unit.

- 2. Return the administrative oversight of inspections and construction plan review to the State Fire Marshal:** Evidence of significant productivity enhancements resulting from the Productivity Realization Task Force initiative were not found by the Study Group. The

volume of constituent complaints has led to more service demands on limited resources existing at the local level. It is because of such negative impact upon customer service at both the State and municipal level some members of the Study Group recommend the State Fire Marshal's Office be restored to the functional composition existing prior to the reorganization.

- 3. Amend the Office of the State Fire Marshal statutes of authority to reflect the reorganization brought about through the Productivity Realization Task Force initiative:** The Study Group recommends a number of statutes be amended or recodified to recognize the shift of functional responsibility to the Department of Public Safety Licensing and Inspection unit. Such changes would eliminate a large portion of the confusion expressed by some constituent groups throughout the review process.

The Study Group also submits the following recommendations for implementation within the existing administrative structure of the Office of the State Fire Marshal:

- 1. Request the insurance industry to pay the fire insurance premium tax on a monthly basis:** Currently Title 25 M.R.S.A. §2399 requires the fire premium tax to be paid on an estimated basis at the end of each quarter. In the context of the State's budget principles, the existing payment cycle forces the Fire Marshal's Office to carry a large cash balance at certain times to ensure sufficient operational funds for up to the next several months. The Study Group examined the expenditures of the Fire Marshal's Office and found they were generally consistent month to month.
- 2. Review and update the Fire Investigator Call Out policy:** Some fire chiefs expressed dissatisfaction with the current criteria used by the field sergeants or duty officer to determine if a response by a fire investigator is warranted. The policy appears adequate in those municipalities having volunteer departments and more limited local investigations resources. In those communities staffed with paid department personnel, the chiefs view the policy as a bureaucratic obstacle; an investigator would not be requested unless it was in accord with the policy.
- 3. Investigator Recruitment and Retention:** The filling of specialized positions, including fire investigators, within the State's civil service system can be a lengthy process. In some cases, several months may pass between initial recruitment and final candidate selection. Currently, the time required to fill the existing investigators' vacancies has negatively impacted the agency operations and morale of the remaining investigators. The Study Group recommends the hiring process be shortened and the recruitment be ongoing so a pool of eligible candidates will continually exist. The Study Group identified other issues affecting recruitment and retention, including parity of pay, retirement and associated benefits.
- 4. Communications:** The importance of routine and continual communications between fire chiefs, the insurance industry and other constituent groups, and the State Fire Marshal's Office will be emphasized. In doing so, a better understanding of the office's mission, operational

procedures and functional limitations can be gained. Maintaining frequent communications with the Department of Public Safety Licensing and Inspection unit is also critical.

5. Continue the integration of technology into daily operations: During the past year, fire investigators were equipped with laptop computers. As a result, productivity of both the field staff and administrative staff have increased. Communications have also been facilitated through use of cellular telephones. The benefits of utilizing these and other technologies were recognized by the Study Group.

6. Foster a partnership between the State Fire Marshal's Office and Maine Fire Training and Education: The occurrence of fires throughout Maine far exceeds the investigation resources of the State Fire Marshal's Office. Determining which incidents will require the State to investigate is primarily dependent on initial observations made by the fire chief or fire officer present at the scene. It is the expertise of these local officials that is the critical component in this procedure.

Establishing a partnership between the State Fire Marshal's Office and Maine Fire Training and Education is a cost effective way to help develop technical expertise among local fire officials. The partnership would blend the well-established service delivery vehicles of Maine Fire Training and Education, including county fire attack schools and the fire science degree program, with the practical knowledge and experience of the state fire investigators.

7. Change shift assignments of fire investigators: Currently, all fire investigators are scheduled to work an 8 hour block within the 12 core hours normally between 7 A.M. and 7 P.M., Monday through Friday. Staff coverage is provided outside the core hours through the use of a call out procedure involving stand by investigators. When called out, the investigator is paid at an overtime rate. In addition, with this procedure only the investigators on standby are required to respond when called out. A personnel shortage could therefore result in the event of a catastrophic incident.

During discussions, some members of the Study Group expressed concern because their requests for an investigator during non-core hours were often assigned on a priority basis to the next business day to keep personnel costs down. A statistical analysis of fire investigations conducted during 1996 was reviewed. These statistics indicated most fires happen between 8 P.M. and 4 A.M. when most personnel are not available.

The Study Group concluded an alternate to the standard Monday through Friday work schedule should be developed and implemented. Any change would need to be in accordance with applicable State personnel rules and the current labor contract.

8. Seek supplemental funding sources. Recently, there has been an increase of grant monies available for law enforcement activities. Two examples are federal funding to prevent and prosecute crimes of violence, and funding to combat arson against public facilities, particularly houses of worship. The State Fire Marshal's Office has been involved in a number of investigations falling within those two categories.

The Study Group concluded these types of supplemental revenues should be sought after. Their intent would be to augment existing program operations in keeping with the Strategic Plan of the Department of Public Safety.

8. Utilize the principles of case management: A variety of case management methods for law enforcement agencies have been developed. Some are specific to the complexities often associated with arson cases. The State Fire Marshal's Office should review available methodologies in the context of its existing supervisory structures and implement the most appropriate.

STUDY GROUP PROCEEDINGS

First Meeting

Held on September 9, 1997, the first meeting had a quorum of members present. Legislative Council staff provided an introductory overview of the timeline associated with this Resolve in the context of the second regular session of the 118th Legislature. Study Group members elected Randall Keep, Vice President of Maine Mutual Insurance Co., as the Chairperson. Study Group members decided to meet twice a month, each meeting to be three hours in length. Members were requested to bring any specific issues of concern to the second meeting.

Second Meeting

So that members could get an overview of the State Fire Marshal's Office, the following information was distributed in advance of the second meeting:

1. Office of the State Fire Marshal mission statement.
2. Office of the State Fire Marshal Organization chart, including those technical functions placed under the direction of the Department of Public Safety Licensing and Inspection Unit created by the Productivity Realization Task Force initiative in 1996.
3. Copies of statutes creating and funding Maine's Office of the State Fire Marshal and delineating its authority, including M.R.S.A. Title 25 §2901; 2901-A; 2902; 2399; 2396; 2392; 2393; 2394; 2395; and 2397.
4. Call Out policy utilized by the State Fire Marshal's Office specifying types of incidents investigators will respond to.
5. 1996 Statewide Summary of Investigation activities conducted by the State Fire Marshal's Office.

6. 1995 Southern Division Investigation activities.
7. Annual tally of fire investigations conducted per county by the State Fire Marshal's Office for the years 1992 through 1996.
8. Fire Inspection Division Manpower Study prepared by the Department of Public Safety Licensing and Inspection unit.
9. Transcript of the Cumberland County Fire Chiefs Association meeting held September 19, 1996. Study Group members were advised this meetings' proceedings articulated the need for Resolve 1997, Chapter 10.

Most of the second meeting, which was held on September 25, 1997, was devoted to discussion of the distributed materials. An overview of the primary agency funding mechanism, the fire insurance premium tax, was given by the Study Group Chairperson. This overview included a description of other insurance premiums taxed and collected on a quarterly basis by the State and their aggregate fiscal impact.

Existing vacancies for fire investigators were discussed in relation to workload considerations as well as funding for personal services.

Statutes were examined to determine staff responsible for any specific functions set forth. Study Group members decided some language, especially that contained in M.R.S.A. Title 25 §2936, appeared anachronistic and in conflict with the Productivity Realization Task Force reorganization.

In reviewing the Fire Inspection Division Manpower Study, members concluded a number of the fees charged pursuant to some inspection activities were insufficient to cover the actual costs of providing those services.

Third Meeting

Held on October 16, 1997, this meeting continued the review of current services provided by the State Fire Marshal's Office and the Department of Public Safety Licensing and Inspection Unit.

The following materials were sent to members prior to the meeting:

1. Department of Public Safety Licensing and Inspection Unit organizational chart.
2. Fire Investigator, Career Opportunity Bulletin issued by the Bureau of Human Resources.
3. List of investigators' geographical areas of coverage, arranged by municipality.

Most of this meeting was devoted to discussing the administrative composition and chain of command established within the Department of Public Safety Licensing and Inspection Unit. Creation of this new unit was described as a streamlined consolidation of the various inspections or reviews and administrative

processing done by bureaus of the department. The Study Group expressed its desire for a continued, even strengthened, working relationship between the public safety inspectors and investigators.

Fourth Meeting

Prior to the fourth meeting, members received:

1. Current organizational charts of all bureaus within the Department of Public Safety.
2. The Department of Public Safety Report of Internal Review and Recommendations to the Productivity Realization Task Force, January 17, 1966.

This meeting, held on November 6, 1997, was a brainstorming session intended to identify all areas of concern individual members had regarding the State Fire Marshal's Office and the Department of Public Safety Licensing and Inspection Unit.

Fifth Meeting

The November 20, 1997 meeting began with continued discussion of the apparent conflict between the statutes describing the responsibilities and authority of the Fire Marshal's Office and the creation of the department's Licensing and Inspection Unit.

Members present decided to request this issue be reviewed by the Office of Policy and Legal Analysis. Also during this meeting, the members began to prioritize the areas of concern identified at the previous meeting. Extensive discussions occurred regarding the recruitment process for investigators, their staffing schedules, and the possible relationship between the Fire Marshal's Office and Fire Training and Education.

Sixth Meeting

Held on December 4, 1997, this meeting focused on funding. Roland Leach, Director of Administrative Services for the Department of Public Safety, provided a historic overview of revenue and expenditures of the Fire Marshal's Office. Study Group members were also told how the budget was established for the Licensing and Inspection Unit and the importance of service fees to its revenue stream.

A packet of financial materials was distributed by Mr. Leach for the Study Group's review. These materials helped clarify the need for a more frequent payment of the fire insurance premium tax by Maine's insurance companies, and the need for the Licensing and Inspection Unit to increase service fees in accord with its actual costs to provide those services.

Seventh Meeting

On January 22, 1998, the seventh meeting of the Study Group began with congratulations directed toward one of the members, John C. Dean, appointed the State Fire Marshal effective January 6, 1998.

Members continued their discussion of the areas of concern first identified on November 6, 1997. The Study Group concluded a number of these could be implemented on an administrative level without requiring legislative action.

There was some discussion regarding the language of Title 25 M.R.S.A. §2396 which limits the law enforcement powers of the investigators. Members did not arrive at any consensus on this issue but that the needs and benefits would be studied further.

APPROVED

CHAPTER

MAR 28 '97

10

BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-SEVEN

H.P. 295 - L.D. 359

Resolve, to Establish a Study Group to Assess the Needs of
the Office of the State Fire Marshal and Ensure Prompt,
Effective Response to the Public's Fire Safety Needs

Sec. 1. Study group established. Resolved: That the Commissioner of Public Safety shall convene a study group to review and consider improvements to the role of the Office of the State Fire Marshal in becoming more responsive to the public and in providing better service to the public. Specifically, the study group shall review the current resources, services provided, issues of concern, funding and the law enforcement role of the Office of the State Fire Marshal within the Department of Public Safety; and be it further

Sec. 2. Membership. Resolved: That the study group consists of the Commissioner of Public Safety or the commissioner's designee; the State Fire Marshal; one representative from the Fire Investigations Division within the Office of the State Fire Marshal appointed by the State Fire Marshal; one representative from the Inspections Division within Administrative Services of the Department of Public Safety appointed by the Commissioner of Public Safety; one certified firefighter appointed by the Governor; one representative of the fire insurance industry appointed by the Governor; one member from the Maine Prosecutors Association appointed from among its members; one member of the law enforcement community appointed by the Maine Chiefs of Police Association; 4 fire chiefs, 2 from the Northern Division and 2 from the Southern Division, appointed by the Executive Board of the Maine Fire Chiefs Association and one Legislator representing the Joint Standing Committee on Criminal Justice appointed jointly by the President of the Senate and the Speaker of the House; and be it further

Sec. 3. Convening of study group. Resolved: That the Chair of the Legislative Council shall call the first meeting of the study group between the 30th and 45th days following the effective date of this resolve. A quorum is a majority of the members; and be it further

Sec. 4. Selection of chair. Resolved: That the study group shall select a chair from among the members at the first meeting; and be it further

Sec. 5. Staffing. Resolved: That the Department of Public Safety shall provide staffing and clerical support to the study group; and be it further

Sec. 6. Compensation. Resolved: That the members of the study group serve without per diem or expenses; and be it further

Sec. 7. Report. Resolved: That the study group shall submit its report to the Joint Standing Committee on Criminal Justice by March 1, 1998. If the study group requires an extension, it may apply to the Legislative Council, which may grant the extension.

Attachment B.

**Office of the State Fire Marshal Study Group
Membership List**

Randall Keep	
Study Group Chairperson (elected)	764-6611
Representing Fire Insurance Industry	
Representative Roger Frechette	286-2901
Representing Northern Maine Fire Chiefs:	
Edwin Pollard	827-3400
Darrel Fournier	873-3347
Representing Southern Maine Fire Chiefs:	
John Dean	646-7912
Charles Hammond	892-1911
Representing Maine Prosecutors:	
R. Christopher Almy	942-8552
Representing Maine Police Chiefs:	
Joseph Rogers	862-4000
Representing Firefighters:	
Lawrence Renaud, Jr.	443-5034
Representing Commissioner of Public Safety:	
Robert Moore	287-7576
Ladd Alcott, Acting State Fire Marshal	287-3473
Representing Fire Investigations:	
Stewart Jacobs	287-3473
Representing Fire Inspections:	
Nelson Collins	624-8741
Study Group Staff:	
Karen Peterson, Office of State Fire Marshal	287-3473